

**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SIXTH LEGISLATURE, 2012**

ON THE FOLLOWING MEASURE:

H.B. NO. 2491, RELATING TO THE HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND.

BEFORE THE:

HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

DATE: Tuesday, February 7, 2012 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Room 309

TESTIFIER(S): David M. Louie, Attorney General, or
Sarah R. Hirakami, Deputy Attorney General

Chair Rhoads and Members of the Committee:

The Department of the Attorney General supports this bill with one recommended modification.

This bill is an administration measure, BUF-07(12), which would add a new section to chapter 87A, Hawaii Revised Statutes (HRS), to authorize the Hawaii Employer-Union Health Benefits Trust Fund ("EUTF") to create a separate trust fund for the purpose of receiving employer contributions that will prefund health and other post employment benefits (OPEB) for retirees and their beneficiaries. An audit of the EUTF concluded that the EUTF currently does not have a trust fund that meets the requirements of the Government Accounting Standards Board (GASB) regarding OPEB trusts.

The State has taken the position that there is no requirement or obligation to pre-fund retiree health and other postemployment benefits (OPEB), and that GASB does not require government employers to fund OPEB plans.

In 2006, the Legislature amended chapter 87A, HRS, to clarify that the EUTF is administered as a trust or equivalent arrangement as that term is used in the GASB statement numbers 43 and 45. See Act 57, 2006 Haw. Sess. Laws at 86-88. Act 57 expressly provided, however, that it was "not meant to bind or require the State or counties to make any particular level of contributions to the Hawaii employer-union health benefits trust fund now or in the future, but only to ensure that contributions actually made are irrevocable."

This bill should be revised to add a similar statement that the public employers are not required to make any particular level of contributions to pre-fund OPEB benefits, notwithstanding the bill's

purpose to authorize the EUTF to establish a separate trust fund for the purpose of receiving OPEB contributions. We recommend that the bill be revised to add a section at the beginning of the bill containing the following paragraph:

This Act is not meant to bind or require the State or counties to make any particular level of contributions to the Hawaii employer-union health benefits trust fund now or in the future, but only to authorize the Hawaii employer-union health benefits trust fund to create a separate trust fund for the purpose of receiving such contributions that meets the requirements of the Government Accounting Standards Board regarding health and other post-employment benefits trusts.

Accordingly, we respectfully request that the Committee pass this bill with the recommended amendment.

**TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
ON
HOUSE BILL NO. 2491**

February 7, 2012

RELATING TO THE HAWAII EMPLOYER-UNION TRUST FUND

House Bill No. 2491 authorizes the board of the Employer-Union Health Benefits Trust Fund (EUTF) to create a trust fund for the explicit purpose of receiving employer contributions for post-employment health and other benefit costs for retiree and their beneficiaries.

The Department of Budget and Finance strongly supports this Administration bill which will enable the establishment of a separate irrevocable trust for the other post-Employment benefits (OPEB).

The bill is to ensure that the EUTF meets the Government Accounting Standards Board (GASB) definition of an irrevocable trust for the purpose of meeting its OPEB obligation and participants of a multi-employer plan are able to appropriately account for the contribution in their respective financial statements. The GASB requirements for a qualified OPEB trust are: 1) it must have the specific criteria of irrevocability of contributions; 2) dedication of plan assets to paying benefits in accordance with the plan; and 3) legal protection of the plan assets from creditors. Several counties have made pre-funded contributions toward their OPEB liabilities but have not been able to account for the contributions because there is no trust established that meets the GASB requirements.

The Administration believes that this measure is necessary to ensure that pre-funded contributions which are made by the public employers are used for its intended purpose and also to ensure that public employers who make these contributions receive the proper credit for the OPEB contributions on their financial statements.

TESTIMONY BY BARBARA CORIELL
ADMINISTRATOR, HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST
FUND, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
ON
HOUSE BILL NO. 2491

February 7, 2012

RELATING TO THE HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST
FUND

Chairperson Rhoads, Vice Chairperson Yamashita and Members of the
Committee:

I am Barbara Coriell, Administrator of the Hawaii Employer-Union Health
Benefits Trust Fund and am here to testify in support of House Bill 2491 which
was recommended by the EUTF.

House Bill 2491 creates a separate irrevocable Trust for employer funding
of the retiree health care liability referred to as the Other Post Employment
Benefits or OPEB liability. A separate Trust is a requirement of GASB 43 for
funds to be considered OPEB contributions for employers' financial statements.

The Government Accounting Standards Board (GASB) 43 which
addresses the issue of funding the OPEB liability requires the entity holding the
funds to be an irrevocable trust set up specifically for OPEB contributions. In this
way OPEB funding can only be used for its stated purpose – funding retiree
health care costs. The EUTF does not currently qualify as a Trust per GASB 43.

Although the EUTF is an irrevocable trust itself, and OPEB contributions
are accounted for separately and invested in their own investment accounts,
there is nothing that certifies that these funds cannot be used for active employee

plan expenses. Because of this, OPEB funds held by the EUTF are currently being shown in employer financial reports as donations and not as OPEB contributions. The EUTF was made aware of this in our June 30, 2010 financial report which was issued in April 2011.

We need to create a specific irrevocable OPEB trust within the EUTF Trust to correct this situation. This change should have a positive financial impact for employers who fund their OPEB liability allowing them to realize the full benefit of that funding in their financial statements.

DEPARTMENT OF BUDGET & FISCAL SERVICES
CITY AND COUNTY OF HONOLULU

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PETER B. CARLISLE
MAYOR



MICHAEL R. HANSEN
DIRECTOR

February 7, 2011

The Honorable Karl Rhoads, Chair
and Members of the Committee on Labor and
Public Employment
The House of Representative
State Capitol
Honolulu, Hawaii 96813

Dear Chair Rhoads and Members:

Subject: House Bill 2491
Relating to the Hawaii Employer-Union Health Benefits Trust Fund

The City and County of Honolulu strongly supports House Bill 2491 which will authorize the Employer-Union Trust Fund (EUTF) Board to create a separate trust fund to receive employer contributions to prefund other post-employment benefits (OPEB).

We understand that the creation of this trust fund will ensure that the City's OPEB contributions will be used exclusively for providing health and other non-pension benefits to City retirees. In addition, the City would be able to receive credit for our OPEB contributions because the trust would meet Government Accounting Standards Board (GASB) requirements for OPEB plans.

The City has already contributed \$40 million in FY 2009, and plans to add another \$37.7 million this fiscal year to EUTF for the City's OPEB obligations. We believe it is essential to secure these funds for the purpose in which they were intended and ask for your favorable consideration of Senate Bill 2491.

Thank you for the opportunity to testify on this matter.

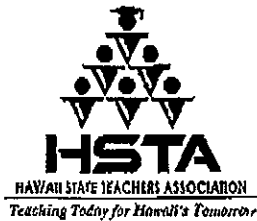
Yours truly,

A handwritten signature in black ink, appearing to read "Michael R. Hansen".

Michael R. Hansen, Director
Department of Budget & Fiscal Services

A handwritten signature in black ink, appearing to read "Noel T. Ono".

Noel T. Ono, Director
Department of Human Resources



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TESTIMONY BEFORE THE HOUSE COMMITTEE ON
LABOR AND PUBLIC EMPLOYMENT

RE: HB 2491 -- RELATING TO THE HAWAII EMPLOYER-UNION HEALTH
BENEFITS TRUST FUND.

TUESDAY, FEBRUARY 7, 2012

WIL OKABE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Rhoads and Members of the Committee:

The Hawaii State Teachers Association supports HB 2491 which allows the board of the EUTF to create a trust fund for the purpose of receiving employer contributions that will prefund post-employment health and other benefit costs for retirees and their beneficiaries.

Any additional financial support which can be provided to post employment benefit costs will help maintain and attract more teachers to the profession. Retirement benefits have been hard hit in this economy and any additional benefit will be welcomed by our members and others considering this profession. Health costs continue to rise and future financial indicators show they will not stop. We hope this fund will create a safety net for the future.

Thank you for the opportunity to testify.

